

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ANNA SUI CORP.,	X	
	X	
Plaintiff,	X	
	X	
-v.-	X	
	X	07 Civ. 3235 (TPG)
FOREVER 21, INC., FOREVER 21 RETAIL, INC.,	X	
FOREVER 21 LOGISTICS, LLC,	X	
DO WON CHANG, JIN SOOK CHANG,	X	
GADZOOKS, INC., GERALD P. SZCZEPANSKI	X	
and JOHN DOES 1 to 20,	X	
	X	
Defendants.	X	
-----X		
<u>DECLARATION OF MARYA LENN YEE</u>		

MARYA LENN YEE declares the following to be true under the penalties of perjury:

1. I am an attorney admitted to practice before the courts of New York, and a member of the law firm Donovan & Yee LLP, attorneys of record for Plaintiff Anna Sui Corp. ("Plaintiff").

2. I make this declaration in opposition to Defendants Do Won Chang and Jin Sook Chang's (collectively the "Chang Defendants" or "Defendants") motion to dismiss Plaintiff's First Amended Complaint pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure.

3. This case revolves around Defendants' repeated willful infringement of Plaintiff's copyrighted print and fabric designs (the "Sui Designs"), under the direction and supervision of the Chang Defendants. To date, Defendants stand accused of over two dozen infringements of the Sui Designs (the "Infringing Designs") and have offered such

Infringing Designs for sale in hundreds of Defendants' stores and on Defendants' website located at www.forever21.com (together, the "Forever 21 Stores.")

4. Upon information and belief, defendant Forever 21, Inc. and related entities (hereinafter "Forever 21") is a privately held company, owned exclusively by the Chang Defendants, which operates over 300 retail stores throughout the United States and abroad. A copy of a *New York Times* article profiling Forever 21, dated May 10, 2007, in which the Chang Defendants and other Forever 21 employees allegedly participated, is annexed hereto as Exhibit A.

5. The Chang Defendants, as the co-owners, co-founders and key personnel of Forever 21, have played an integral role in the design, supervision, distribution and sale of the Infringing Designs.

6. Forever 21 operates over fourteen stores throughout the state of New York. There are several Forever 21 Stores in this District, including three large mega-stores in Manhattan, located at 568 Broadway, 40 E. 14th Street and 50 W. 34th Street. These stores typically offer hundreds of Forever 21 garments and accessories for sale at any given time.

7. A number of the Infringing Designs at issue in this case have been discovered in Defendants' Manhattan locations.

8. Plaintiff filed its original complaint for willful copyright infringement in violation of 17 U.S.C. §101, unfair competition and false designation of origin or sponsorship in violation of 15 U.S.C. §1125, unlawful trade practices in violation of New York General Business Law and common law unfair competition in violation of New York State Law against Defendants, including the Chang Defendants, on April 23, 2007.

9. Prior to service of the original complaint, Plaintiff first contacted the Defendants regarding the Infringing Designs and although settlement discussions ensued, in the following weeks Plaintiff continued to discover additional infringements of its Sui Designs in the Forever 21 Stores, all to the frustration of Plaintiff and the hoped-for settlement. As the co-founders, co-owners and key executives of Forever 21, along with their position as co-defendants in the action filed in April 2007, the Chang Defendants had the power and authority to cease the design, sale and distribution of the Infringing Designs, but chose not to. Instead, Defendants continued in their design, sale and distribution of Infringing Designs, resulting in Plaintiff's First Amended Complaint (the "First Amended Complaint"), filed on June 26, 2007.

10. The Chang Defendants were served with copies of the First Amended Complaint, pursuant to the applicable rules under the FRCP and CPLR, on or around July 2, 2007. Copies of the affidavits of service for the Chang Defendants are annexed hereto as Exhibit B.

11. Counsel for the Defendants, including the Chang Defendants, appeared in this action on or around July 30, 2007. The Chang Defendants are represented by the same counsel as the other Forever 21 Defendants.

12. The parties have engaged in initial discovery although counsel for the Chang Defendants has failed to produce any information or documents pertaining to the specific responsibilities and duties of the Chang Defendants to date, apart from the declarations submitted by the Chang Defendants in support of this motion. In fact, in response to Plaintiff's First Set of Interrogatories, Defendants objected to Plaintiff's request that Defendants' identify the Chang Defendants' title and responsibilities at and

relationship to Forever 21. A copy of Defendants' Responses and Objections to Plaintiff's First Set of Interrogatories and Requests for Admission is annexed hereto as Exhibit C.

13. Nevertheless, Defendants have listed Jin Sook Chang, co-founder, co-owner and Head Buyer for Forever 21, as a person with knowledge of the subject matter of this litigation in Defendants' Initial Disclosures Pursuant to Federal Rule of Civil Procedure 26(a). A copy of Defendants' Initial Disclosures in annexed hereto as Exhibit D.

Dated: New York, NY
January 4, 2008



MARYA LENN YEE